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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,452	10/07/2003	Hirotsugu Fukuoka	YMOR:039F	3690
27890 7590 05/15/2007 STEPTOE & JOHNSON LLP 1330 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036			EXAMINER TRIEU, THERESA	
			ART UNIT 3748	PAPER NUMBER
			MAIL DATE 05/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/679,452	Applicant(s) FUKUOKA, HIROTSUGU	
	Examiner Theresa Trieu	Art Unit 3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 10-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 08/802,533.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>Oct. 7, 2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is responsive to the applicants' election filed on Feb. 20, 2007.

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

Election/Restrictions

2. Applicant's election with traverse of the species of Fig. 6 in the reply filed on Feb. 20, 2007 is acknowledged. The traversal is on the ground(s) that the search and examination of an entire application can be made without serious burden. This is not found persuasive because the claims recite several limitations which are mutually exclusive to the different species as noted by the examiner in the Restriction Requirement mailed on January 18, 2007. Examining all of these numerous distinct features of the entire application would place a serious burden on the Examiner. The search required for any one of the species would not be required for the remaining species. It is additionally pointed out that, contrary to what applicant(s) suggest(s), the examination burden is not limited exclusively to a prior art search but also includes the effort required to apply the art by making and discussing all appropriate grounds of rejection.

The requirement is still deemed proper and is therefore made **FINAL**.

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Applicant's election of the species of Fig. 6 and claims 9, 12 and 13 being readable thereon is also acknowledged. However, claims 12 and 13 depend on claim 8; therefore, the examiner has not examined these claims. The examiner has examined claim 9 which read on the elected species of Fig. 6. Claims 8 and 10-13 are withdrawn from consideration as being directed to a non-elected species. Claims 1-7, 14 and 15 have been canceled by applicant's request.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is narrative in form whereas all elements of the combination should be positively recited.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuda (Publication Number JP 60-143812) in view of Corner (Publication Number GB 373,661).

Regarding claim 9, Matsuda (as shown in Fig. 1) discloses a compressor having a compressing mechanism (see abstract) incorporated in an enclosed container, wherein a fine pipe

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(10A, 10, 10B) is inclined at 90° or less in a flowing direction of refrigerant is connected to a discharge pipe (3, 8) for discharging compressed refrigerant and a collector (10-10B). However, Matsuda fails to disclose the collector being coupled to the fine pipe.

Corner teaches that it is conventional in the art to utilize a discharge pipe (1, 3) the collector 5 being coupled to the fine pipe (see Fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the rich air fuel ration control means, as taught by Corner in the Matsuda apparatus, since the use thereof would have increased the collection of foreign matter from the refrigerant flow or reduced the debris exiting from the refrigerant flow.

Prior Art

The IDS (PTO-1449) filed on Oct. 10, 2003 has been considered. An initialized copy is attached hereto.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of one patent: Niimura et al. (U.S. Patent Number 5,173,041) discloses a vacuum pump with solid material collector and cooling coils.

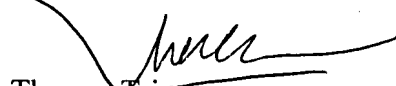
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TT
May 7, 2007


Theresa Trieu
Primary Examiner
Art Unit 3748